



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
TEGE EO Examinations Mail Stop 4920 DAL
1100 Commerce St.
Dallas, Texas 75242

501-03.00

Date: March 21, 2011

Number: 201124028

Release Date: 6/17/2011

LEGEND

ORG = Organization name

XX = Date Address = address

ORG

ADDRESS

Taxpayer Identification Number:

Person to Contact:

Employee Identification Number:

Employee Telephone Number:

(Phone)

(Fax)

CERTIFIED MAIL – RETURN RECEIPT

Dear :

This is a final adverse determination regarding your exempt status under section 501(c)(3) of the Internal Revenue Code. Our favorable determination letter to you dated April 20XX is hereby revoked and you are no longer exempt under section 501(a) of the Code effective January 1, 20XX.

The revocation of your exempt status was made for the following reason(s):

Organizations described in IRC 501(c)(3) and exempt under section 501(a) must be both organized and operated exclusively for exempt purposes. You have failed to produce documents to establish that you are operated exclusively for exempt purposes and that no part of your net earnings inures to the benefit of private shareholders or individuals. You failed to respond to repeated reasonable requests to allow the Internal Revenue Service to examine your records regarding your receipts, expenditures, or activities as required by sections 6001 and 6033(a)(1) of the Code.

Contributions to your organization are no longer deductible under IRC §170 after January 1, 20XX.

You are required to file income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for the tax year ending December 31, 20XX, and for all tax years thereafter in accordance with the instructions of the return.

Processing of income tax returns and assessments of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.

If you decide to contest this determination under the declaratory judgment provisions of section 7428 of the Code, a petition to the United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia must be filed before the 91st Day after the date this determination was mailed to you. Please contact the clerk of the appropriate court for rules regarding filing petitions for declaratory judgments by referring to the enclosed Publication 892. You may write to the United States Tax Court at the following address:

You also have the right to contact the Office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal Appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free, 1-877-777-4778, and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Nanette M. Downing
Director, EO Examinations

Enclosures:
Publication 892



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY

Internal Revenue Service
TE/GE: EO Examinations
1100 Commerce Street
Dallas, TX 75242

November 5, 2010

ORG
ADDRESS

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

Certified Mail - Return Receipt Requested

Dear _____ :

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, take no further action. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Nanette M. Downing
Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Report of Examination

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number EIN	Year/Period ended 12/ 31/20XX	

LEGEND

ORG = Organization name XX = Date

ISSUES

Whether the tax-exempt status for ORG should be revoked since they failed to provide information verifying its continued qualification for exempt status.

FACTS

ORG is a 501(c)(3) tax exempt organization with Private Non-Operating Foundation Status. The organization was established in October of 20XX. The current status of the organization was "01-Unconditional" which indicates at the time of the report the organization was granted exemption. The organizations status has been suspended with the State of California (See *exhibit A*). The 20XX Form 990 was selected for examination. The Form 990 stated the organization had \$0 in revenue, \$0 in expenses, \$0 in total assets, and \$0 in total liabilities. The return was signed by the organizations Secretary on September 6, 20XX and was filed late.

Several monthly bank statements were included in the case file. The organizations bank statements for the period under examination showed a substantial amount of money was moved through the organizations account.

The following information was taken from ORG's 20XX bank statements.

Month	Beg. Balance	Total Deposits and Credits	Total Checks, Withdrawals, Transfers, Account Fees
Jan			
Feb			
Mar			
Apr			
May			
June			
July			
Aug			
Oct			
Nov			

A deposition of the organizations Secretary was included in the case file. The Secretary stated the organization was created to buy houses, fix them up, and sell them to people with low or medium income. Money was loaned to Assisting A Non-Profit by one of the officers (CFO). The organization was involved in the purchase of at least two different properties. The Secretary purchased at least one of the houses from the organization. According to the deposition the organization was having problems remodeling the house and the Secretary thought if she bought the house the organization could move on to another project. There were no documents in the case file outlining the terms of the transaction.

There were no phone numbers listed on the return which could be used to contact an officer in the organization. The initial appointment letter used when there is no prior taxpayer contact was sent to the

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Service's address of record. The letter was returned with a message stating the organization moved. Two additional addresses were found on Accurint that were used by the organization at one time; one address was for the house that was owned by the organization. Postal tracers were sent to both addresses and they were returned with messages stating "Moved, left no forwarding address" and "Not known at address given". The case file was reviewed and 8 more postal tracers were sent out using names of officers, board members and addresses listed on documents that were in the case file. A postal tracer was also mailed using the address on the organizations bank statements. All of the addresses were invalid except for one. The valid postal tracer's indicated mail was still delivered to the address given. This address was the same as the California Secretary of State address of record for the organization. Several appointment letters were sent out to the valid addresses that were verified by the postal tracers. No response was received regarding the appointment letters that were sent out. A 30-day letter was sent by certified mail to the Service's address of record, and the California Secretary of State's address of record. The letter sent to the Service's address of record was undeliverable. After 30 days no response was received.

LAW

IRC §501(c)(3) provides for exemption of organizations organized and operated exclusively for charitable purposes, and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

IRC § 6001 provides that every person liable for any tax imposed by the Code, or for the collection thereof, shall keep adequate records, render such statements, make such returns, and comply with such rules and regulation as the Secretary of the Treasury or his delegate may from time to time prescribe. Whenever in the judgment of the Secretary it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary deems sufficient to show whether or not such person is liable for tax under this title.

IRC § 6033(a)(1) provides, except as provided in IRC § 6033(a)(2), every organization exempt from tax under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts and disbursements, and such other information for the purposes of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

Treas. Reg. § 1.6001-1(a) in conjunction with Treas. Reg. § 1.6001-1(c) provides that every organization exempt from tax under IRC § 501(a) and subject to the tax imposed by IRC § 511 on its unrelated business income must keep such permanent books or accounts or records, including inventories, as are sufficient to establish the amount of gross income, deduction, credits, or other matters required to be shown by such person in any return of such tax. Such organization shall also keep such books and records as are required to substantiate the information required by IRC § 6033.

Treas. Reg. § 1.6001-1(e) states that the books or records required by this section shall be kept at all times available for inspection by authorized internal revenue officers or employees, and shall be retained as long as the contents thereof may be material in the administration of any internal revenue law.

Treas. Reg. §1.6033-2(i)(1) states that an organization which is exempt from taxation under section 501(a) and is not required to file annually an information return required by this section shall immediately notify in

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writing the district director for the internal revenue district in which its principal office is located of any changes in its character, operations, or purpose for which it was originally created.

Treas. Reg. §1.6033-2(i)(2) provides that every organization which is exempt from tax, whether or not it is required to file an annual information return, shall submit such additional information as may be required by the Internal Revenue Service for the purpose of inquiring into its exempt status and to administer the provisions of subchapter F (section 501 and the following), chapter 1 of the Code and IRC § 6033. Failure to comply with this request for information could result in the loss of tax exempt status.

Revenue Ruling 59-95, 1959-1 CB 627, states that an organization previously held exempt from Federal income tax was requested to produce a financial statement as of the end of the year and a statement of its operations during such year. However, its records were so incomplete that it was unable to furnish such statements. Section 6033 of the Internal Revenue Code of 1954 provides that every organization, except as provided therein, exempt from taxation under section 501(a) of the Code shall file an annual return, stating specifically the items of gross income, receipts, and disbursements, and shall keep such records, render under oath such statements, make such other returns and comply with such rules and regulations as the Secretary of the Treasury or his delegate may from time to time prescribe. The failure or inability to file the required information return or otherwise to comply with the provision of section 6033 of the Code and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of an exempt status.

In accordance with the above cited provisions of the Code and regulations under IRC § 6001 and § 6033, organizations recognized as exempt from federal income tax must meet certain reporting requirements. These requirements relate to the filing of a complete and accurate annual information (and other required federal tax forms) and the retention of records sufficient to determine whether such entity is operated for the purposes for which it was granted tax-exempt status and to determine its liability for any unrelated business income tax.

TAXPAYER'S POSITION

The taxpayer has not responded to any of the attempts to contact them. Their position is unknown.

GOVERNMENT'S POSITION

Assisting A Non-Profit Organization has failed to meet the reporting requirements of IRC Sections 6001 and 6033 cited above by not providing the records required to substantiate the information entered in Form 990 for 20XX. Information that was in the case file showed that a substantial amount of money has been moved through the organizations bank account. The organization did not provide records to show that the \$0 in Revenue, \$0 in Expenses, and \$0 in Assets reported on the return was accurate. The failure to provide books and records to substantiate the organizations activities for the period ending December 31, 20XX constitutes failure to comply with section 1.6033-2(i)(2) of the Tax Regulations cited above. There was also evidence of transactions which could have resulted in private inurement. We propose to revoke the organization exemption under section 501(c)(3) of the code, effective 1/1/20XX.

The organization has not responded to any of the requests to examine their books and records. It has not been possible to determine if their record keeping is sufficient and if the return filed is accurate. It has not

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been possible to determine if the organization is operated exclusively for exempt purposes within the meaning of Internal Revenue Code section 501(c)(3).

CONCLUSION

The organization failed to meet the reporting requirements under IRC § 6001 and § 6033 to be recognized as exempt from federal income tax under IRC 501(c)(3). The failure to provide books and records to substantiate the organization's activities constitutes a failure to comply with Section 1.6033-2(i)(2) of the Tax Regulations cited above. They were given adequate opportunities to provide the information and they were aware of the steps that will be taken if they fail to provide such information. Accordingly the organizations exempt status should be revoked effective, January 1, 20XX.